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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/327,593 06/08/99 BROCK

M 118776-1

EXAMINER

TM02/0702

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ART UNIT

PAPER NUMBER

2166
DATE MAILED:

07/02/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/327,953

Applicant(s)

SHIRAKAWA ET AL.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-7 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10,11,14-17 and 22 is/are allowed.
- 6) ☒ Claim(s) 3-7,12,13 and 18-21 is/are rejected.
- 7) ☒ Claim(s) 2, 9 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

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Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Claims 12-13 and 19-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 12 and 19, it is not clear what constitutes a “decorative surface”, since it is not clear how the surface is being decorated. Stating that the decorative surface “corresponds to an environment that the interchangeable display system simulates” is also indefinite since the environment is not defined.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3-7, 12-13, and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sauder ('876).

Figure 6 of Sauder discloses rectangular, flat base members which support wall sections in the form of vertical posts mounted at edges of the base members. Each post includes grooves with openings at their upper ends so as to support a wall panel between the posts. The base members also include grooves which are aligned with the grooves in the vertical posts so as to support the wall panels. Figure 6 is only partial view of a construction for a set of walls, and it is clear that any number of base members, posts or walls sections can be deployed in a given construction.

Claims 2 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14-17 and 22 are allowed.

Remarks

With respect to the rejection of claims 12-13 and 19-22 under 35 USC 112, applicant's arguments have been considered but are not well taken. The term "decorative surface", in its broadest reasonable sense, is difficult to correlate with specific features. For example, it is not clear if a wall could be considered "decorated" if it is simply painted plain white, or if it requires the applications of designs to be considered decorated. The term "decorative surface" does not give a clear indication as to how the wall is being treated, since it is not clear what does or does not constitute a decoration.

In addition, stating that the decorative surface corresponds to a certain environment is of no value unless the environment itself is defined. Comparing a first indefinite term to another indefinite term does not create definiteness.

With respect to the rejections of claims 2-7, 12-13 and 19-21 as being anticipated by Sauder, applicant arguments have been considered but are not well taken. Applicant argues that Sauder does not disclose an opening for inserting the wall panels into the grooves of support posts. This argument is not well taken. The upper ends of each vertical post includes openings that permit the wall panels to slide into the grooves. It is worth noting that claims 12 and 19 do

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not define the beam, which is actually the structure in applicant's invention that contains the opening.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell
Primary Examiner
Art Unit 3712